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Casey Lobbied Without Registering

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William J. Casey, as a private lawyer working for the Indonesian government, lobbied top officials of the Treasury Department in 1976 for multimillion-dollar changes in the U.S. tax law without registering as a foreign agent.

Casey, now Central Intelligence Agency director, has contended in past Senate inquiries that he performed limited legal services and attended "informational meetings" with Internal Revenue Service officials. But government documents obtained by The Washington Post indicate that Casey was advocating specific changes in tax policy outside established channels with top political appointees of the Ford administration, including Treasury Secretary William E. Simon.

The issue of whether Casey should have registered as a foreign agent is under Justice Department review following last fall's Senate Intelligence Committee inquiry, which concluded Casey was not unfit to serve as director of the CIA. Stanley Sporkin, CIA general counsel, has maintained that Casey was not required to register as a foreign agent.

Casey's representation of Indonesia, as documented by memoranda from the IRS and Treasury, is similar to the case of lawyers Clark M. Clifford and Paul Warnke, both former high government officials. They were required to register as foreign agents for Algeria in 1975 after Justice officials learned that the two had met in 1971 with U.S. government officials in an attempt to expedite Export-Import loans to Algeria.

In many instances, the Justice Department requires registration after the fact. In 1980, President Carter's brother, Billy, also was forced to register for his Libyan representation, which caused embarrassment to the administration.

A lawyer representing a client, including a foreign government, in an "established proceeding" such as an IRS tax ruling case is not required to register as a foreign agent, but is supposed to register if engaged in "political activity." The law defines that as any action intended to "persuade or in any other way influence any agency or official of the United States . . . with reference to formulating, adopting or changing the domestic or foreign policies of the United States . . . ."

Documents and interviews with former officials show that Casey met first with the treasury secretary and the assistant secretary for tax policy, a State Department official and later with IRS officials, urging the IRS to put aside its objections to the Indonesian production contracts with major American oil companies and the claims for tax credits for overseas taxation. In 1978 the IRS came around to the position favored by Indonesia.

On July 8, 1976, Casey met with Simon and his assistant secretary for tax policy, Charles M. Walker, to enlist their aid. Walker followed the meeting by writing a July 9, 1976, memorandum to then IRS Commissioner Donald C. Alexander urging him to expedite new tax rulings.

In an interview this week, Alexander said that Simon and Walker became involved in the foreign tax credit question. "I just thought the IRS ought to have called them the way we saw them without regard to political considerations."

Both Simon and Walker said recently that they do not recall the meeting, but they do not dispute what the government documents show.

Attorney General William French Smith, in the most recent policy statement, said in a report last fall that his department would require "complete public disclosure by persons acting for or in the interests of foreign principals where such activities are political in nature or border on the political."

Casey's argument that he was not required to register as a foreign agent centers on the exemption for attorneys performing legal services in what the law calls an "established agency proceeding."

IRS regulations specifically state that only U.S. taxpayers may apply for IRS rulings in an established agency proceeding, which requires a formal application and specific submissions. Casey made no such application and instead attempted to win a favorable policy change for Indonesia by going through top Treasury officials.

Justice spokesman John Russell said yesterday that private lawyers have an obligation to register as agents of foreign clients "when they attempt to influence or persuade government officials, except in established agency proceedings."

"In other words," Russell said, "arguments must be made in a proceeding rather than informally up on the Hill or over the breakfast table or in private meetings in the executive branch. It has to be some sort of forum, such as a court or a hearing."

Another knowledgeable Justice Department official who asked not to be named said that the circumstances described in this story would normally require registration as a foreign agent.

The Indonesian tax matter began in May, 1976, when major oil companies operating in Indonesia, including Texaco, Atlantic Richfield and Mobil, were put on notice that the IRS would no longer treat their "production sharing" arrangements with the Indonesian government as a foreign tax that could be deducted from U.S. taxes.

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